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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,698	11/20/2003	Joseph A. Pruitt	812495/220 (10.83)	9310
64553 7590 01/13/2009 Nixon Peabody LLP (F5 PATENTS) Gunnar G. Leinberg 1100 Clinton Square Rochester, NY 14604				
EXAMINER				
VETTER, DANIEL				
ART UNIT		PAPER NUMBER		
3628				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/717,698

**Applicant(s)**

PRUITT ET AL.

**Examiner**

DANIEL P. VETTER

**Art Unit**

3628

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 44-48, 50 and 68-78 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 44-48, 50 and 68-78 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of the Claims***

1. Claims 1-48 and 50-67 were previously pending in this application. Claims 44 and 50 were amended, claims 1-43 and 51-67 were canceled, and new claims 68-78 were added in the reply filed November 7, 2008. Claims 44-48, 50, and 68-78 are currently pending in this application.

### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 7, 2008 has been entered.

### ***Response to Arguments***

3. Applicant's amendments overcome the objection to the Specification and it is withdrawn.

4. Applicant's arguments with respect to claims 44-48 and 50 have been considered but are moot in view of the new grounds of rejection. Examiner does not hereby subscribe to any of applicant's characterizations of the previously cited art. For example, dePinto explicitly teaches the claimed client/server architecture and computer service providers at ¶ 0090—not solely a "client" in the consumer sense as alleged in the Remarks. The below grounds of rejection are solely presented due to the newly entered claim amendments and new claims.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 44-48, 50, and 68-78 are rejected under 35 U.S.C. 102(e) as being anticipated by Moore, et al., U.S. Pat. Pub. No. 2004/0122926 (Reference A of the attached PTO-892).
7. As per claim 44, Moore teaches a method for determining a service provider in a computer network, comprising:
  - performing a transaction, by a client computer, with a first service provider, the first service provider being a server computer (§ 0030);
  - automatically collecting feedback data pertaining to the transaction (§ 0037);
  - transmitting, to a directory service, a request for a provider of a second service, the directory service including a UDDI server configured to execute a UDDI protocol (§ 0041);
  - transmitting, to the directory service, at least a portion of the feedback data from the transaction involving the first service provider (§ 0037); and
  - receiving, from the directory service, a response based on the second service request, the at least a portion of the feedback data, and the UDDI protocol, wherein the response comprises one or more service locations (§ 0054).
8. As per claim 45, Moore teaches claim 44 as described above. Moore further teaches the feedback data comprises an evaluation of a service provided by the first service provider (§ 0045).
9. As per claim 46, Moore teaches claim 44 as described above. Moore further teaches the feedback data comprises data representing a negative rating of the first service provider (§ 0053).
10. As per claim 47, Moore teaches claim 44 as described above. Moore further teaches the feedback data comprises data representing a positive rating of the first service provider (§ 0053).

11. As per claim 48, Moore teaches claim 44 as described above. Moore further teaches the feedback data comprises a quality of content provided by the first service provider (§ 0070).
12. As per claim 50, Moore teaches claim 44 as described above. Moore further teaches receiving, from the client computer, a second feedback data pertaining to a transaction between the client computer and one or more service providers (§ 0045); and transmitting, to the directory service, the second feedback data, wherein the response is at least in part based on the second feedback data (§ 0045).
13. As per claim 68, Moore teaches claim 44 as described above. Moore further teaches automatically selecting, solely by the client computer, from the one or more service locations, a service location based on the at least a portion of feedback data (§ 0054).
14. As per claim 69, Moore teaches claim 44 as described above. Moore further teaches the feedback data comprises connection characteristics (§ 0037).
15. As per claim 70, Moore teaches claim 69 as described above. Moore further teaches the connection characteristics include one or more of measured latency, network path used for a connection, bandwidth, response time, and dropped packets (§ 0037).
16. As per claim 71, Moore teaches a method for determining a computer service provider in a network, comprising:
  - monitoring, in the network, an electronic transaction involving a client computer and a first computer service provider, the first computer service provider configured to provide the client computer with a first service, the network including a directory service device and at least one data collector device (§§ 0030, 37);
  - automatically collecting feedback data by the at least one data collector device, the feedback data pertaining to the electronic transaction (§ 0037);
  - receiving in the directory service device a service request for a location of one or more computer service providers configured to provide a second service (§ 0041);

transmitting, from the at least one data collector device to the directory service device, at least a portion of the automatically collected feedback data (§¶ 0037); and

transmitting, from the directory service device, a response based on the service request and the at least a portion of the automatically collected feedback data, wherein the response comprises one or more locations of computer service providers (§¶ 0054).

17. As per claim 72, Moore teaches claim 71 as described above. Moore further teaches the directory service device includes a UDDI server configured to execute a UDDI protocol (§¶ 0004-05, 41).

18. As per claim 73, Moore teaches claim 72 as described above. Moore further teaches the UDDI server executes the UDDI protocol to generate the response comprising the one or more locations of computer service providers (§¶ 0040-42).

19. As per claim 74, Moore teaches a network apparatus for providing service locations to a client computer, the network apparatus comprising:

a data collector configured to receive feedback data associated with one or more transactions between one or more client computers and one or more computer service providers (§¶ 0037, 45);

a data repository coupled to the data collector, the data repository including a data storage device for storing the feedback data collected by the data collector (§ 0045);

a UDDI server including a UDDI registry, the UDDI registry including information associated with the one or more computer service providers (§ 0040), the UDDI server configured to execute a UDDI protocol to generate a list of service locations for one or more of the computer service providers in response to a request from the client computer (§ 0041), the list of service locations based at least in part on the feedback data stored in the data repository and the information associated with the computer service providers (§ 0054).

20. As per claim 75, Moore teaches claim 74 as described above. Moore further teaches the network apparatus is a traffic manager on a network (Fig. 4).

21. As per claim 76, Moore teaches claim 74 as described above. Moore further teaches the feedback data includes computer connection characteristics (§ 0037).
22. As per claim 77, Moore teaches claim 76 as described above. Moore further teaches the computer connection characteristics include at least one of measured latency and network path used for a connection (§ 0037).

### ***Conclusion***

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Butler, et al., U.S. Pat. Pub. No. 2003/0018585 (Reference B of the attached PTO-892) teaches a method and system of processing electronic transactions involving three parties, normally remote from one another. A service requestor(SR) requests a good or service from a service provider(SP) on the condition that certain terms will be fulfilled indicating that the good or service is provided at a particular standard. The service provider registers with a reputation authority terms for the supply of a good or service. Kuno, et al., U.S. Pat. Pub. No. 2004/0064554 (Reference C of the attached PTO-892) teaches a UDDI service registry adapted to interact with registry clients. The service registry includes a service registry interface operatively coupled to a service data registry and a metadata registry for processing unstructured queries from registry clients. Harris, U.S. Pat. Pub. No. 2006/0112367 (Reference D of the attached PTO-892) teaches a method includes ranking services in a web services architecture and a web services architecture. The web services architecture has a hierarchy of services in a UDDI registry with a root originating service requester and a service of a first level in the hierarchy calling a service of a lower level. The originating service requestor indicates a preference regarding one or more services and a ranking machine provides a choice algorithm based on the preference. LaSalle, et al., U.S. Pat. Pub. No. 2006/0259320 (Reference E of the attached PTO-892) teaches systems by which entities can efficiently discover, extend, validate and establish business relationships over a digital network.
24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL P. VETTER whose telephone number is

(571)270-1366. The examiner can normally be reached on Monday through Thursday from 8am to 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W Hayes/

Supervisory Patent Examiner, Art Unit 3628